

Message Text

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ACTION EB-07

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 3048

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E.O. 11652: N/A

TAGS: EAIR, IN

SUBJECT: CIVAIR: GOI DISCRIMINATION IN CURRENCY CONTROL

REF: (A) NEW DELHI 16602, (B) STATE 270311, (C) NEW DELHI

A-303, SEPTEMBER 12

1. AS INDICATED REF A, EMBASSY BELIEVES LATEST GOI STEP TO PROVIDE COMPETITIVE ADVANTAGE TO NATIONAL AIRLINES THROUGH FOREIGN EXCHANGE LICENSING CONTROLS CALLS FOR STRONG OFFICIAL REACTION ON OUR PART. SYSTEM HAS NOW BECOME PERVASIVE, AFFECTING TRAVELERS, BOTH FOR PLEASURE AND FOR BUSINESS, AS WELL AS FREIGHT, BOTH IMPORTS AND EXPORTS (SEE REF C). IN THE ABSENCE OF ANY RESISTANCE, WE CAN EXPECT GOI TO ADOPT ADDITIONAL MEASURES EXPANDING THE IMPACT OF THIS POLICY TOOL.

2. REF B AUTHORIZED EMBASSY TO DELIVER NOTE TO MINISTRY OF EXTERNAL AFFAIRS REGARDING AIR FREIGHT IMPORTS REGULATION. WE BELIEVE GENERAL SUBJECT OF DISCRIMINATORY EXCHANGE PRACTICES -- RECENT REGULATIONS AND FOREIGN TRAVEL SCHEME (ITEM 1, REF C) IN PARTICULAR -- CAN MOST EFFECTIVELY BE COVERED IN ONE NOTE. FOLLOWING DRAFT TEXT PROPOSED FOR DEPARTMENT'S APPROVAL.

3. QTE...AND HAS THE HONOR TO REFER TO REGULATIONS OF THE RESERVE BANK OF INDIA CONCERNING THE AVAILABILITY OF FOREIGN
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EXCHANGE FOR PASSENGER TRAVEL AND SHIPMENT OF GOODS BY INTERNATIONAL

AL AIR CARRIERS.

4. THE FIRST SUCH REGULATION (IDENTIFYING DATA WILL BE INSERTED) PERMITS REP LICENSE HOLDERS TO UTILIZE THE ENTIRE VALUE OF THEIR LICENSES -- ORIGINALLY ISSUED TO COVER C.I.F. COST -- ON ACCOUNT OF PAYMENT OF F.O.B. COST AND INSURANCE ONLY, PROVIDED THE GOODS ARE IMPORTED THROUGH AIR INDIA AND THE AIR FREIGHT PAID IN INDIA IN NON-CONVERTIBLE RUPEES. AS A RESULT OF THIS PRACTICE, THE REP LICENSE HOLDER IS "ABLE TO IMPORT A HIGHER QUANTITY OF GOODS," AS THE CIRCULAR ITSELF ASSERTS, BY BOOKING HIS SHIPMENT ON AIR INDIA RATHER THAN ANY OTHER AIRLINE PROVIDING INTERNATIONAL SERVICE TO INDIA.

5. THE SECOND REGULATION (IDENTIFYING DATA) RESTRICTS THE USE OF BLANKET EXCHANGE PERMITS FOR EXPORT PROMOTION TRAVEL TO PERSONS TRAVELING ON AIR INDIA OR INDIAN AIRLINES. THIS REGULATION GOES BEYOND PROVIDING A FINANCIAL INCENTIVE TO CHOOSE THE INDIAN NATIONAL AIRLINES. RATHER BY FORCE OF LAW IT PREVENTS TRAVELERS, EVEN THOUGH USING PRIVATE RESOURCES, FROM ENGAGING THE SERVICES OF OTHER INTERNATIONAL AIRLINES.

6. THE THIRD REGULATION (IDENTIFYING DATA) AUTHORIZES THE EXCHANGE RELEASE OF \$100 TO TRAVELERS UNDER THE FOREIGN TRAVEL SCHEME PROVIDED TRAVEL IS PERFORMED ON AIR INDIA TO THE EXTENT AIR INDIA PROVIDES SERVICE ON THE ROUTE TO BE TRAVELED.

7. THE EMBASSY HAS BEEN INSTRUCTED TO INFORM THE MINISTRY OF EXTERNAL AFFAIRS THAT THE U.S. GOVERNMENT CONSIDERS THE DISCRIMINATORY FOREIGN EXCHANGE PRACTICES OF THE RESERVE BANK OF INDIA PRESCRIBED IN THESE REGULATIONS TO BE CLEARLY INCONSISTENT WITH THE FAIR AND EQUAL OPPORTUNITY PROVISIONS OF ARTICLE 6 OF THE U.S.-INDIA AIR TRANSPORT SERVICES AGREEMENT OF 1956.

8. IT IS THE VIEW OF THE U.S. GOVERNMENT THAT THESE AND OTHER DISCRIMINATORY OR RESTRICTIVE PRACTICES OF THE REGULATORY AGENCIES OF THE INDIAN GOVERNMENT ADVERSELY AFFECT THE ABILITY TO ENGAGE IN BUSINESS OF THE U.S. AIR CARRIER CURRENTLY PROVIDING SERVICE TO INDIA. THIS DETERMINATION WILL BE TAKEN INTO ACCOUNT DURING ANY CONSIDERATION OR REVIEW OF THE OPERATIONS OF AIR INDIA IN THE UNITED STATES.

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9. THE MINISTRY OF EXTERNAL AFFAIRS WILL RECALL THAT COMPETITIVE PRESSURES HAVE LED ONE U.S. AIR CARRIER TEMPORARILY TO SUSPEND SERVICES TO INDIA. SHOULD THE U.S. AIRLINE COMPANY WHICH CONTINUES TO PROVIDE PASSENGER AND FREIGHT SERVICES TO INDIA FIND THAT IT IS NO LONGER COMMERCIALLY DESIRABLE FOR IT TO DO SO, THE U.S. GOVERNMENT WILL CONSIDER THE DISCRIMINATORY AND RESTRICTIVE PRACTICES OF THE GOVERNMENT OF INDIA AS RELEVANT TO A DE-

TERMINATION WHETHER TO CONTINUE TO PERMIT OPERATIONS OF THE INDIAN NATIONAL CARRIER IN THE UNITED STATES.

10. THE EMBASSY INVITES THE URGENT ATTENTION OF THE MINISTRY OF EXTERNAL AFFAIRS TO THESE DISCRIMINATORY POLICIES IN THE EXPECTATION THAT EFFECTIVE STEPS WILL BE TAKEN TO BRING THE PRACTICES OF THE GOVERNMENT OF INDIA INTO FULL CONFORMITY WITH THE BILATERAL AIR TRANSPORT SERVICES AGREEMENT. (COMPLEMENTARY CLOSE.) UNQTE

11. EMBASSY BELIEVES PARAS. 8 AND 9 ABOVE OR SOMETHING LIKE THEM -- ARE CRUCIAL ELEMENTS OF U.S. DEMARCHE. THEY SAY, FIRST, THAT WE WILL BE INCLINED TO PLACE COMPARABLE RESTRICTION ON AIR INDIA OPERATIONS INsofar AS OPPORTUNITY ARISES. WE ARE THINKING OF POSSIBLE ACTION ON NEW DELHI-NEW YORK EXCURSION FAIR, OF COURSE, OR OTHER RELIATORY ACTION WHICH PAN AM MAY PROPOSE (THEY ARE CONSIDERING A COMPULSORY DEPOSIT SCHEME, FOR EXAMPLE).

12. SECOND AND POTENTIALLY MORE DRAMATIC THREAT IS TO TERMINATE AIR INDIA OPERATIONS TO NEW YORK COMPLETELY SHOULD PAN AM PULL OUT OF INDIA. THREAT IS "EMPTY" AT THIS TIME BECAUSE PAN AM HAS NO PRESENT INTENTION OF STOPPING ROUND THE WORLD SERVICE. BUT POINT WE WISH TO MAKE IS HONEST: IF GOI PURSUES POLICIES OF COMMERCIAL DISCRIMINATION IN FAVOR OF NATIONAL AIRLINES TO THE POINT OF MAKING PAN AM CLOSE DOWN INDIA SERVICE AS MONEY LOSER, USG WOULD HAVE TO THINK TWICE IN ALLOWING AIR INDIA CONTINUED UNILATERAL ACCESS TO NEW YORK MARKET.

13. WE MAY BE RELUCTANT TO THREATEN POSSIBLE RETALIATION ON THE BASIS OF AN UNLIKELY EVENTUALITY. BUT WE CANNOT ACCOMPLISH OUR PURPOSE OF PULLING GOI UP SHORT ON ITS EXPANDING SYSTEM OF DISCRIMINATION WITHOUT PUTTING SOME SUBSTANCE IN OUR PROTEST.

14. WE UNDERSTAND FOREIGN AIRLINES' PROTEST (PARA 2 REF A)
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WAS DELIVERED TO GOI WEEK OF DECEMBER 15. BRITISH AIRWAYS, LUFTHANSA AND ALITALIA HAVE TOLD PAN AM THEY HAVE SOUGHT SUPPORT FROM THEIR RESPECTIVE GOVERNMENTS. WE WILL BE IN DIRECT CONTACT WITH THESE AND EMBASSIES OF OTHER MAJOR EUROPEAN CARRIERS IN EFFORT TO MAXIMIZE THE EFFECT OF OUR OFFICIAL APPROACH.
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